

## **EXHIBIT A**

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
(EASTERN DIVISION)

BANCO DO BRASIL, S.A.	)	
Plaintiff,	)	
v.	)	Civil Action No. 1:09-cv-11343
275 WASHINGTON STREET CORP.,	)	
as it is the Trustee of the WASHINGTON	)	
STREET REALTY TRUST II,	)	
Defendant.	)	

**AFFIDAVIT OF KATHLEEN A. SCOTT**  
**IN SUPPORT OF BANCO DO BRASIL, S.A.'S MOTION FOR SUMMARY JUDGMENT**

I, Kathleen A. Scott, having been duly sworn, hereby depose and state as follows:

1. I am counsel in the Financial Services Group at Arnold & Porter LLP.
2. I have personal knowledge of the facts described herein, which I believe to be true.
3. I have over twenty years of experience in bank regulatory matters.
4. I began my career at the United States Department of the Treasury, in the legal division of a Treasury bureau and then in the Office of the Assistant General Counsel for Enforcement, where I concentrated on financial enforcement matters such as anti-money laundering statutes and regulations. At the Department of the Treasury, my responsibilities included advising on policy positions, drafting regulations, and speaking to the industry on compliance and enforcement issues.

5. After working at the Department of the Treasury, I served as a senior staff attorney at the New York State Banking Department, where I worked on, *inter alia*, corporate and international banking matters.

6. Since October 1998, I have worked in private practice representing banking clients with respect to, *inter alia*, the regulatory aspects of the establishment of new banking organizations.

7. I represented Banco do Brasil, S.A. ("Banco do Brasil") in its attempt to obtain regulatory approval to establish a new federal savings bank to be indirectly wholly owned by Banco do Brasil which would be called "Banco do Brasil Federal Savings Bank" ("FSB"). The FSB was to have five organizers (the "Organizers"), three of which worked in some capacity for Banco do Brasil and two which were independent of Banco do Brasil (the Organizers and Banco do Brasil referred to herein collectively as "Banco do Brasil").

8. As part of the application process, Banco do Brasil sought regulatory approval to maintain the principal office of the FSB in New York, New York, and to operate a branch of the FSB at 227-275 Washington Street in Boston, Massachusetts.

9. In addition to the FSB branch in Boston, Banco do Brasil also sought regulatory approval to operate additional FSB branches in New Jersey, Florida, and Connecticut.

10. There were three U.S. federal regulatory agencies involved in the application process: the Board of Governors of the Federal Reserve System (the "FRB"), the Office of Thrift Supervision (the "OTS") and the Federal Deposit Insurance Corporation (the "FDIC").

11. Pursuant to the International Banking Act, the FRB must approve Banco do Brasil, a non-U.S. bank, to own a U.S. federal savings bank (the "FRB Application").

12. Pursuant to the Home Owners Loan Act, the OTS must approve the establishment of a federal savings bank and approve a proposed federal savings bank's direct and indirect control parties as savings and loan holding companies (the "OTS Application").

13. Pursuant to the Federal Deposit Insurance Act, the FDIC must approve an application for deposit insurance for a federal savings bank (the "FDIC Application," and with the FRB Application and the OTS Application, the "Applications").

14. In 2007, Banco do Brasil began preparing to file applications to obtain regulatory approval for the FSB.

15. On November 21, 2007, representatives from Banco do Brasil had a preliminary meeting with OTS to discuss its application for regulatory approval. I was present at that meeting.

16. On January 9, 2008, representatives from Banco do Brasil had a formal pre-application meeting with the OTS and the FDIC to discuss the proposed OTS and FDIC Applications. I was present at that meeting.

17. At that meeting, the OTS and the FDIC provided comments to Banco do Brasil concerning the proposed OTS and FDIC Applications.

18. Banco do Brasil addressed the regulators' comments in finalizing the OTS and FDIC Applications in March of 2008.

19. Banco do Brasil filed the OTS Application on March 10, 2008, with the principal office of the OTS in Washington, D.C.

20. Banco do Brasil filed the FDIC Application on March 10, 2008, with the FDIC Regional Office in New York, New York.

21. Banco do Brasil filed the FRB application on March 20, 2008, with the FRB through the Federal Reserve Bank of New York in New York, New York.

22. Beginning in April of 2008, on an ongoing basis, Banco do Brasil received and answered numerous questions posed by OTS, FDIC, and FRB staff regarding the Applications.

23. In September of 2008, FDIC staff requested a meeting at the FDIC New York Regional Office with Banco do Brasil to discuss the FDIC Application.

24. At the September 23, 2008, meeting with FDIC staff, which also was attended by OTS staff, representatives from Banco do Brasil responded to numerous questions about the FSB's proposed business plan and products, and FDIC staff strongly encouraged Banco do Brasil to withdraw the deposit insurance application. I was present at that meeting.

25. By letter to the FDIC dated October 1, 2008, Banco do Brasil withdrew the FDIC Application and indicated that it intended to file a new application.

26. On January 6, 2009, Banco do Brasil filed with the FDIC a new deposit insurance application for the FSB with a revised business plan (the "2009 FDIC Application").

27. Additionally, Banco do Brasil filed copies of the 2009 FDIC Application with the FRB and OTS in January of 2009.

28. After repeated inquiries concerning the status of its application, on March 26, 2009, Banco do Brasil had a conference call with FDIC staff. I was present on that conference call.

29. During the March 26, 2009, conference call, FDIC staff informed Banco do Brasil that it was returning the deposit insurance application as incomplete and indicated that we would shortly receive a letter explaining the reasons. When asked to comment generally on the

reasons for the return of the application, FDIC staff again expressed concerns about the FSB's proposed business plan and products.

30. The FDIC later sent a letter dated April 2, 2009, formally notifying Banco do Brasil that the application was being returned.

31. I worked intensively for over 18 months with many Banco do Brasil personnel to obtain the required regulatory approvals for Banco do Brasil in order to open the FSB.

32. In my opinion, Banco do Brasil made every reasonable effort in diligently working to obtain the required regulatory approvals in order to open the FSB.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 30<sup>th</sup> DAY OF OCTOBER, 2009.

  
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KATHLEEN A. SCOTT

CERTIFICATE OF SERVICE

I, Eric F. Eisenberg, hereby certify that on this 30<sup>th</sup> day of October, 2009, this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

  
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